THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.13503 of 2006

Dated:18.08.2006

Between:

Kadavakollu Venkata Satya Siva Kumar, and others.

…Petitioners

and

The District Collector, Visakhapatnam, and another.

…Respondents

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ORDER:

The five petitioners are residents of Rambilli Village and Mandal, Visakhapatnam District. They allege that the Mandal Revenue Officer issued D-Form patta to them assigning an extent of about Acs.3.50 cents each to petitioners 2 to 5 and an extent of Acs.2.00 to petitioner No.1. The land is comprised in Survey Nos.257/P and 257/11 situated at Rambilli Village. They also allege that they have been cultivating the land. The respondents notified certain lands for acquisition situated at Rambilli Village for 'East Coast Naval Alternate Upgrading Base' (hereinafter referred to as 'Naval Base') and in that connection on 15.06.2006 a special team headed by the Deputy Mandal Revenue Officer surveyed the lands. The petitioners apprehend that they might be dispossessed without due process of law. Therefore, they filed the instant Writ Petition for appropriate mandamus for declaration and direction.

At the stage of admission itself, the Mandal Revenue Officer, Rambilli, filed a counter affidavit denying the grant of D-Form pattas to the petitioners and also denying the allegations of possession by the petitioners. It is further stated that as per the diglot register of Rambilli the land in Survey No.257 is classified as Konda Poramboke (hill poramboke) and the land has fallen in the alignment for construction of

Naval Base. There is no record of assignment of the land to the petitioners and the documents produced by the petitioners are fabricated. The Government is taking necessary steps to evict all the encroachers before taking the land for the purpose of Naval Base. The petitioners have also filed a reply affidavit denying every averment made in the counter affidavit. They also produced xerox copies of the applications made by them to the Mandal Revenue Officer and the pattadar pass books issued to the petitioners in support of the contention that they were granted pattas and they have been in possession of the land.

Whether the petitioners were granted D-Form pattas in respect of the land comprised in Survey Nos.257/P and 257/11 situated at Rambilli Village and whether pursuant to such pattas, the petitioners also obtained pattadar pass books validly in respect of the land classified as hill poramboke are the matters which cannot be adjudicated as they are in the realm of questions of fact. As rightly pointed out by both the Counsel, unless and until the petitioners are evicted - if they are in possession of the land; after issuing notice to them in accordance with law, the petitioners cannot be evicted. In W.P.No.3409 of 2006, dated 23.02.2006, and W.P.No.5437 of 2006, dated 20.03.2006, filed by persons similarly situated, this Court took the same view wherein the respondents were directed not to dispossess the petitioners from their respective lands without following due process of law.

Accordingly, this Writ Petition is also disposed of observing that if the petitioners are encroachers of the land or patta holders, the respondents have to necessarily take possession by following due process of law after issuing notices and obtaining explanations. No costs.

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(V.V.S.RAO, J)

18.08.2006
vs